



STATE OF CONNECTICUT – COUNTY OF TOLLAND
INCORPORATED 1786

TOWN OF ELLINGTON

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LORI L. SPIELMAN
First Selectman

JAMES M. PRICHARD
Deputy First Selectman

MELINDA M. FERRY
SARAH D. COOK
DAVID E. STAVENS
RONALD F. STOMBERG
JOHN W. TURNER

SPECIAL MEETING
BOARD OF SELECTMEN (BOS)
TOWN ORDINANCE COMMITTEE (TOC)
January 30, 2020
Town Hall Meeting Hall

Minutes

MEMBERS PRESENT: John Turner, Melinda Ferry, Ronald Stomberg

OTHERS PRESENT: Dorian Famiglietti, Town Attorney; John Colonese, Assistant Town Planner/Zoning & Wetlands Enforcement Officer; Timothy Webb, Director of Public Works; Sergeant Brian Santa, Resident State Troopers' Office Supervisor; James Prichard, Selectman; Julia Connor, Recording Secretary; Eric and Linda Amioka, Tim Vamosi, Shawn Koehler, Tom Palshaw

I. CALL TO ORDER:

Chairman Stomberg called the meeting of the BOS TOC to order at 6:02 p.m.

II. CITIZENS' FORUM: Eric Amioka, 7 Westview Terrace, expressed concern regarding dirt bike noise in his neighborhood. Chairman Stomberg stated that a noise ordinance to cover this type of activity had been looked into in years past, but it was never taken up.

III. APPROVAL OF MINUTES:

A. September 30, 2019

MOVED (TURNER), SECONDED (FERRY) AND PASSED UNANIMOUSLY TO APPROVE THE MINUTES OF THE SEPTEMBER 30, 2019 TOWN ORDINANCE COMMITTEE MEETING.

IV. UNFINISHED BUSINESS

A. Proposed Ordinance Regarding Discharging Firearms/Target Shooting in Residential Areas

Tim Vamosi, 49 Crystal Lake Road, stated that on several occasions, a gun has been discharged multiple times in the woods directly across the street from him. He shared that it has been a frightening experience, not knowing where the bullets are being shot in such close proximity to a residential area. He urged the Committee to put forward an ordinance to protect residents from these situations.

Mr. Amioka remarked that non-residents and non-homeowners are able to go onto another individual's property, with permission, and shoot during all hours of the day, so he doesn't even know who the individuals are that are doing the shooting. Attorney Famiglietti stated that any ordinance going forward would cover everyone participating in such activity, not just the property owner.

Chairman Stomberg stated that there are likely many individuals in Town that participate in legal shooting activity and don't cause any problems; he wouldn't want to unduly restrict them based on the discourteous conduct of a few. Attorney Famiglietti shared a few examples of ordinances in other municipalities in Connecticut; the way this issue is handled varies considerably.

Chairman Stomberg asked Sgt. Santa about the nuances of public nuisance laws. Sgt. Santa responded that it is rather limited to hunting; the State Statute can't be changed for one Town. He stated that as long as the firearms are legally owned and the homeowner has given permission to other individuals to shoot on their property, his hands are tied. However, if an individual discharges a round that hits someone else's building or structure, it would be considered unlawful discharge of a firearm. Attorney Famiglietti responded that this is only applicable if it can be proved that the behavior was reckless or negligent.

Mr. Vamosi acknowledged that currently, there needs to be damage to a building, person, or other property before there is any legal recourse, but he would like there to be a mechanism put in place so that individuals don't have to live in terror from being surrounded by this activity.

Ms. Ferry asked, in the event of an ordinance being passed, what steps would then be taken. Attorney Famiglietti responded that the repercussions would be based on what is drafted into the ordinance; if someone was shooting on their property and a complaint was made, an officer would respond and determine if this violated the ordinance; Attorney Famiglietti referenced an ordinance that requires a minimum distance of 500 feet from a structure. If a violation is determined, the ordinance would provide what would happen in that situation. Most towns refer to a monetary penalty for each offense.

Chairman Stomberg asked where such a distance, as recorded in an ordinance, would be measured from; Attorney Famiglietti responded that it would be measured from the spot of the firearm being discharged, as best as could be ascertained.

James Prichard asked if the distance needs to be from an inhabited structure; Sgt. Santa stated that he believed it was any structure, inhabited or not.

Mr. Turner stated that he doesn't believe a noise ordinance will solve this problem. He also feels that a nuisance ordinance can't be constructed in such a way that it becomes a nuisance to enforce. His recommendation is for the Committee members to meet with Attorney Famiglietti to craft an ordinance that very closely mirrors State Statute and other state regulations, as many others do. He explained the process of an ordinance being passed. The Town Ordinance Committee will make a recommendation to the full Board of Selectmen, who will then decide whether or not to recommend the adoption of the ordinance. If they do choose to move forward, the ordinance will be put through the process of a Public Hearing as well as a Town Meeting.

Mr. Amioka asked where the standard of 500 feet came from; Attorney Famiglietti stated that the 500 feet used in State Statute is relatively arbitrary, and there are varying distances listed in the ordinances statewide.

Mr. Vamosi asked the difference of regulations between small-scale shooting and an actual shooting range. Attorney Famiglietti stated that she didn't believe the Town was zoned for commercial shooting ranges and that wasn't what was being addressed.

Shawn Koehler, 125 Shenipsit Street, asked if this meeting was about one individual or if it was really for the best of the Town as a whole. Ms. Ferry responded that there have been complaints from three different areas of Town, and while it's unfortunate that people don't always use common sense, the Committee needs to take into consideration that residents should feel safe. Sgt. Santa reiterated that any potential ordinance would have to pass a Town Meeting, as voted on by the residents.

MOVED (TURNER), SECONDED (FERRY) AND PASSED UNANIMOUSLY TO CONTINUE DISCUSSION WITH THE TOWN ATTORNEY ON THE DEVELOPMENT OF AN ORDINANCE, RELATING TO STATE HUNTING DISTANCES AND THE REGULATIONS OF DISCHARGING A FIREARM, IN CONJUNCTION WITH THE RESEARCH DONE BY THE TOWN ATTORNEY.

Mr. Turner urged those present to exercise patience during the research and drafting of this proposed ordinance.

B. Review Proposed Revision to Article II Snow and Ice Removal from Sidewalks
§154-4 Removal of Snow and Ice

Timothy Webb spoke to the reasoning behind this change; allowing a longer window over a storm weekend gives Public Works employees a better opportunity to safely remove snow after a winter weather event.

Attorney Famiglietti asked if this is something that should be worked into the recently revised Citations Ordinance. Mr. Webb stated that at this time, he would prefer to leave the current penalty and fine language as it reads.

MOVED (TURNER), SECONDED (FERRY) AND PASSED UNANIMOUSLY TO RECOMMEND TO THE BOARD OF SELECTMEN THE ADOPTION OF THE PROPOSED REVISION TO ARTICLE II SNOW AND ICE REMOVAL FROM SIDEWALKS §154-4 REMOVAL OF SNOW AND ICE. [ATTACHED]

V. NEW BUSINESS

A. Proposed Revisions to Chapter 48. Wetland and Zoning Violations


Mr. Turner clarified that this is simply to clean up language and align this ordinance with the newly revised Citations Ordinance.

MOVED (TURNER), SECONDED (FERRY) AND PASSED UNANIMOUSLY TO RECOMMEND TO THE BOARD OF SELECTMEN THE ADOPTION OF THE PROPOSED REVISIONS TO CHAPTER 48. WETLAND AND ZONING VIOLATIONS. [ATTACHED]

VI. ADJOURNMENT:

MOVED (FERRY) SECONDED (STOMBERG) AND PASSED UNANIMOUSLY TO ADJOURN THE MEETING OF THE BOARD OF SELECTMEN TOWN ORDINANCE COMMITTEE AT 6:43 P.M.

Submitted by


Ronald Stomberg, Chairman

SIDEWALK ORDINANCE SNOW AND ICE REMOVAL – LIABILITY

1. Definitions.

The following words shall, unless the context requires otherwise, be construed and understood as follows:

SIDEWALK – Any portion of the street, usually lying on either side thereof, between the curb and the adjacent property line, intended for the use of pedestrians by virtue of having been improved by pavement whether of asphalt, concrete or stone.

STREET – Includes avenues, boulevards, highways, roads, alleys, lanes, viaducts, bridges and the approaches thereto and all of the public thoroughfares in the Town and means all that part thereof from property line to property line of the premises abutting thereon.

2. Removal of Snow and Ice Required.

2.1 DUTY TO REMOVE. Any fall of snow or sleet upon any sidewalk in the Town or any ice upon such sidewalks shall be removed by the owner, occupant or person having the care, maintenance or rental of the land, building or premises adjoining or fronting upon such sidewalk or connected therewith.

2.2 TIME WITHIN WHICH SNOW IS TO BE REMOVED. Such removal of snow or sleet as provided for in Subsection 2.1 above shall be made within 24 hours following the cessation of the fall of snow or sleet, or 36 hours on weekends.

2.3 UNREMOVABLE SNOW TO BE MADE SAFE. If snow, sleet or ice cannot be wholly removed as provided in Subsection 2.2 above; the owner, occupant or person having the care, maintenance or rental of such premises shall remove so much thereof as is reasonably possible and sprinkle sufficient sand or other proper substance in such quantity over the entire surface of the unremovable snow, sleet or ice remaining upon such sidewalk as may be required to keep the same in safe condition for public travel at all times.

2.4 PENALTY FOR FAILURE TO REMOVE. Any person who violates or refuses or neglects to comply with the provisions of the preceding subsections shall be punished by a fine of not more than \$25 for a first violation, \$100 for a second violation and \$100 for each subsequent violation. Each day of failure to comply with the requirements of this Ordinance shall constitute a separate offense.

2.5 TOWN TO CLEAR SIDEWALKS AT OWNER'S EXPENSE. In addition to any other penalty provided by law, if any owner or occupant fails to comply with the provisions of Subsections 2.2 and 2.3 above, the Department of Public Works and its employees may clean and remove all snow and ice from such sidewalks. The

expense of such removal shall be a lien upon the premises adjoining and abutting on such sidewalks, and the Board of Selectmen may cause a certificate of lien therefore to be recorded in the town clerk's office within sixty (60) days after such removal.

2.6 **FORECLOSURE OF LIEN.** The expense of cleaning and removal of snow and ice by the Department of Public Works as provided in Subsection 2.5 above and the cost of the lien therefore may be entered in the next succeeding rate bill for taxes against the owner of the premises with the tax assessed upon such premises, and if such expense and such cost of lien is paid with such taxes, the lien shall be discharged; if not so paid, the lien may be foreclosed in the manner provided by law for the foreclosure of other liens for local improvements.

3. **Liability of Sidewalk Abutter.**

3.1 Notwithstanding the provisions of Section 13a-149 of the Connecticut General Statutes or any other general statute or special act, the Town of Ellington shall not be liable to any person injured in person or property caused by the presence of ice or snow on a public sidewalk unless the Town of Ellington is the owner or person in possession and control of land abutting such sidewalk, other than land used as a highway or street, provided the Town of Ellington shall be liable for its affirmative acts with respect to such sidewalk.

3.2 The owner or person in possession and control of land abutting a public sidewalk shall have the same duty of care with respect to the presence of ice or snow on such sidewalk toward the portion of the sidewalk abutting his property as the municipality had prior to the effective date of this ordinance adopted pursuant to the provisions of Connecticut General Statutes Sec. 7-163a and shall be liable to persons injured in person or property where a breach of said duty is the proximate cause of said injury.

3.2.1 If the Department of Public Works clears the sidewalk of snow, sleet or ice pursuant to paragraph 2.5 hereof, it shall be deemed the agent of the abutter responsible for said clearing and none of such work shall constitute an affirmative act of the Town under paragraph 3.1.

3.3 No action to recover damages for injury to the person or to property caused by the presence of ice or snow on a public sidewalk against a person who owns or is in possession and control of land abutting a public sidewalk shall be brought but within two years from the date when the injury is first sustained.

This Ordinance shall be effective on November 2 , 2002.

Board of Selectmen Recommend Adoption on	<u>9/23/02</u>
Public Hearing Held on	<u>9/23/02</u>
Approved by Town Meeting on	<u>10/07/02</u>

Chapter 48. Citations for Wetland and Zoning Violations

(HISTORY: Adopted by the Town of Ellington 2-5-2007. Amended ~~xx-xx-2019~~ ments noted where applicable)

General References

Citations – See Ch. 46

Inland wetlands and watercourses – See Ch. 210

Zoning – See Ch. 230

§ 48-1. Definitions.

The following definitions shall apply in the interpretation and enforcement of this chapter. (Masculine terms include the feminine.)

CITATION

A written statement of the relevant conditions and facts giving rise to the wetland or zoning violation, including a reference to the specific section(s) of the wetland or zoning regulations which has been violated, the time period during which the violation has existed, and the amount of the potential fine ~~due and the cited persons right to appeal pursuant to § 46-3A.~~

CITATION HEARING BOARD

As defined pursuant to § 46-2.

CITED PERSON

As defined pursuant to § 46-2.

OFFICIAL

The Zoning Enforcement Officer, Deputy Zoning Enforcement Officer, Wetland Agent or municipal official charged with enforcing a municipal ordinance or regulation who issued the notice of violation or citation.

§ 48-2. Authority to issue citations; fines.

- A. Pursuant to Connecticut General Statutes (C.G.S.) § 8-12a, as may be amended, and in addition to the remedies provided in C.G.S. § 8-12, an official, as defined herein, is hereby authorized to issue citations for violations of the Zoning Regulations of the Town of Ellington. Except as

~~otherwise provided in § 48-4A, the~~ The fine for each zoning violation ~~shall be may not exceed~~ \$150 for each day a violation continues.

- B. Pursuant to C.G.S. § 22a-42g, as may be amended, and in addition to the remedies provided in C.G. S. § 22a-44, an official, as defined herein, is hereby authorized to issue citations for violations of the Inland Wetlands Regulations of the Town of Ellington.

(1) ~~Except as otherwise provided in § 48-4A, the~~ The fine for each wetland violation shall ~~not be more than~~ the following:

(a) For activities that occur within the established upland review area of an inland wetland or watercourse, but not within its related inland wetland or watercourse: \$500.

(b) For activities that occur within an inland wetland or watercourse: \$1,000.

(2) Each day's continuance thereof shall be deemed to be a separate and distinct offense.

- C. Any such fine shall be made payable to the Treasurer of the Town of Ellington.

§ 48-3. Service of notice; citation.

- A. Any citation issued under this chapter shall be and is sufficient if ~~notice of the same is provided in accordance with § 46-2. provided in one of the following forms, unless otherwise stated:~~

~~(1) In hand delivery by an official charged with enforcing the ordinance or regulation.~~

~~(2) Certified mail, return receipt requested, to the last known address of the person cited or to the address listed in the records of the Assessor's Office.~~

~~(3) Delivery by any commercial carrier and delivery service such as, but not limited to, Fed Ex or UPS.~~

~~(4) A commercial process server, state marshal, police officer or constable.~~

- B. When a citation is refused by any of the ~~above~~ methods set forth in § 46-2, it may be sent by first class mail. The official issuing the citation shall retain a true and attested duplicate original of such citation.

§ 48-4. Citations, enforcement and appeal and procedures.

A. ~~— The provisions of § 46-3 as to the time within which an appeal may be filed to the contrary notwithstanding, any person receiving a citation may, within 10 days following service of the citation, file an appeal in writing in the office of the First Selectman pursuant to the~~

~~provision of § 46-3A and C.G.S. § 7-152c(d). The failure to file an appeal shall be deemed to have admitted liability for the violation cited.~~

A. Any person receiving a citation shall have ~~30 days~~30 days from the date of the citation to make an uncontested payment of the fine set forth in the citation to the First Selectman's office, either in person or by mail without requesting a hearing. If the person cited makes an uncontested payment within the prescribed ~~30 days~~ 30 days and the cited violation has been remedied within said period, the total fine shall be \$150 for a zoning violation. In the case of a wetlands violation, if the cited person makes an any uncontested payment is made within the prescribed ~~30 days~~ 30 days and the cited violation has been remedied within said period, the total fine shall be \$500 or \$1,000, whichever fine is applicable pursuant to § 48-2B.

B. If the fine provided for in any such citation is unpaid beyond the due date stated therein, the official who issued the same may initiate proceedings under Chapter 46, Citations, to collect such fine.

C. Any person issued a citation and fined pursuant to this chapter may appeal such citation and fine pursuant to Chapter 46, Citations.

~~B.~~

~~C. If the person cited fails to pay the fine within the time frame prescribed in Subsection B of this section, an official authorized to issue citations may proceed as provided in § 46-3B et seq.~~

~~D. The failure to pay the assessment of any fine(s) made by the citation hearing officer may result in a Superior Court judgment as provided in C.G.S. § 7-152(f), as may be amended, entitled to judicial review as provided in C.G.S. § 7-152c(g), as may be amended.~~

§ 48-5. Severability, Effect on other laws; Effective date.

A. If any provision of this chapter or the application thereof shall be held invalid or unenforceable, the remainder of this chapter, or the application of such terms and provisions to persons or circumstances other than those to which it is held invalid or unenforceable, shall not be affected thereby, and each remaining term and provision hereof shall be deemed valid and shall be enforced to the fullest extent permitted by law.

B. The provisions of this chapter shall be in addition to and not in derogation of any and all provisions of the Connecticut General Statutes and ordinances of the Town of Ellington.

C. The effective date of this chapter is March 3, 2007.